

Appl No.: 09/755,442

Atty. Dkt.  
PC-930**REMARKS/ARGUMENTS**

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 2, 16, 23 and 24 and canceled claims 20 and 26-29. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks.

As to the restriction requirement, applicant has now canceled claims 20 and 26-29 and reserves the right to file divisional applications in the future.

The subject application was filed as a utility patent application on January 5, 2001 and which claims the benefit of priority to U. S. Provisional Application 60/174,785 filed January 6, 2000. A copy of the original provisional application was included with a previous response. The provisional application refers on page 3 sentence numbered "7 Text only information...is conducive to hand held web browsing tools such as wireless telephones and palm pilots..." and in Figures 6-9 showing single vertical column lists, and in Fig. 10 which "...allows a hierarchical menu to be constructed in real time from any starting point...." Other pages of applicants' provisional application are referenced in the remarks listed below.

Claim 1 was objected to for an improper spelling of a word which has been corrected with this response.

Claims 1, 2, 7, 8 and 12-13 were rejected under sec. 102e as being anticipated by Showghi '739. The Showghi reference is based on a PCT application filed in April 27, 2000, which is AFTER the provisional application for the subject invention was applied for in January 6, 2000. Showghi relies on a provisional application that was filed for on April 27, 1999. However, applicant has pulled and includes a copy of the Showghi provisional application and notes that MANY of the features relied upon by the Examiner do not have a priority date back to the provisional application for Showghi.

For example, Independent claims 1, 23, and 24 require "a customer owned conventional personal handheld display device" so that a "customer" uses their own "cell phone, pager or personal digital assistant. Showghi requires attendees at "sporting events, concerts and other gatherings of patrons....in a ....confined facility having seating in identifiable seats...." Page 1 of the Showghi provisional application.

The Showghi provisional application continuously describes and requires their "remote ordering terminals" be used within a "confined facility" and furthermore clearly requires a feature of "audibly reminding customers to return the terminals to prevent inadvertent removal of the terminals from the facility", pages 4, 7 of the Showghi provisional application.

Showghi clearly describes that their "remote ordering terminals" are NOT a "cellular phone or pager." Pages 3, 4, and 7 of the Showghi provisional application requires docking stations that must receive the Showghi "terminals" after use so that they can be recharged. Additionally, page 9 of Showghi states that "As a special service to those customers attending large events, who do not have a cellular phone or pager and want to be accessible to external messages, a remote ordering system could be enabled to receive written messages...." Clearly, Showghi does NOT DESCRIBE, TEACH OR SUGGEST the novel use and application of "a customer owned conventional personal handheld display device" as claimed in the subject invention.

Showghi requires the use of "infrared or radio transmission" for the remote ordering by requiring "patrons/customers" use the confined facilities owned "remote

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ordering terminals", owned or controlled within the confined facilities, where these "terminals" MUST BE RETURNED to the facilities after use, pages 4, 6 of the Showghi provisional application.

These requirements in the Showghi provisional application are totally opposite to the claimed features of the subject application.

The subject independent claims which are supported by a provisional application FILED BEFORE SHOWGHI requires the "a customer owned conventional personal handheld display device" is selected from "a pager, a cell phone, and a PDA(personal digital assistant)" that uses a "existing wireless telephone lines" to dial into a remote website that is remotely located from the "customer owned conventional personal handheld display device." See for example, pages 3 and 4 of the provisional application filed by the subject inventors.

There are other differences between the subject invention and Showghi as well. For example, independent claim 1 of the subject invention requires "the second subcategory headings being solely listed in a single vertical column on the third menu page with separate second subcategory headings solely on each line; third selecting and viewing at least one of the second subcategory headings by scrolling down the single vertical column on the third menu page on the handheld display device; and repeating accessing and selecting and viewing by solely scrolling down only one single vertical column on each successive menu page on the handheld display device, until the user reaches an end of a menu series to a finite selection list of a classification that is listed in a single vertical column, wherein interaction of the accessing of the first page, the second page, the third page, and the first selecting, the second selecting and the third selecting are navigated on the handheld display device without inputting any search queries; and viewing the single column of the finite selection list of the classification by scrolling down the finite selection list on the handheld display device, without the inputting of any search queries." These features are similarly claimed in subject claims 8, 23 and 24. As noted previously, these features are also supported by the original provisional application on at least Figures 6-9, filed by the subject inventors.

Showghi clearly shows their display requires plural parallel columns of displays in Figures 3 and 4 of their provisional patent application, and NOT the "single column" formats as claimed in the subject invention.

Claims 6, 9, 14 and 23 were rejected under sec. 103 as being obvious by Showghi in view of Bidz. The Bidz reference does not overcome the deficiencies to Showghi. As noted in previous responses applicants' claims of using a "conventional personally owned handheld display device" for "accessing the web... through the handheld display device that is selected from at least one of a pager, a cell phone, and a PDA(personal digital assistant)..." Is clearly NOT DESCRIBED, TAUGHT OR SUGGESTED BY BIDZ.

Clearly, Bidz does not describe, teach or suggest other claimed features of using the handheld display device so that the user reaches a "single vertical column of an finite selection list menu" and "viewing the single column of the finite selection list of the classification by scrolling down the finite selection list on the handheld display device, without the inputting of any search queries..." Clearly, as admitted by the examiner, these features are not described, taught or suggested by Bidz. Therefore removal of the Bidz reference is respectfully requested.

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Claims 16 and 24 were rejected under sec. 103 as being unpatentable over Showghi in view of Bidz and further in view of Wolfe. Similar to Bidz, Wolf also does not overcome the deficiencies to Showghi as referenced above. Thus, removal of this rejection is respectfully requested.

The Examiner's continuous rejections using new art appear to argue that the claimed features might be unpatentable under an "obvious to try" to test. However, Examiner is well aware that "obvious to try" is not the standard for determining inventiveness. See also *In re Kaplan*, 789 F. 2d at 1580, 229 U.S.P.Q. at 683, where the court held: "In effect, what the Board did was to use a disclosure of appellants' own joint invention which had been incorporated in the Kaplan sole disclosure to show that their invention was but an obvious variation of Kaplan's claimed invention. That amounts to using an applicant's invention disclosure, which is not ... prior art... That is impermissible."

Thus, the examiner CANNOT MAINTAIN an obvious to try rejection over the claimed features. For at least these reasons alone, this rejection must be removed, and any future rejection be made nonfinal and require citing a reference and not the examiner's personal feelings to reject the claims.

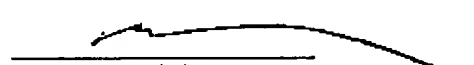
The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification to make the necessary changes in the reference device. Ex parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

There is no teaching, nor suggestion for modifying the references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

It is respectfully urged that claims 1, 2, 6-9, 12-14, 16 and 23-24 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney below.

Respectfully Submitted;

  
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30445 - Showghu

**PROVISIONAL PATENT APPLICATION****REMOTE ORDERING SYSTEM****TECHNICAL FIELD**

This invention relates to the remote ordering of goods and services and, more particularly, to a remote ordering system utilizing a wireless hand-held terminal.

**BACKGROUND OF THE INVENTION**

Sporting events, concerts and other large gatherings of patrons, or customers take place in an arena, stadium, or other confined facility having seating in identifiable seats, which are usually reserved or assigned. At these events, the ability of customers to secure refreshments in the form of food and drink is limited. It is customary for hungry and thirsty customers to await the arrival of roving vendors who intermittently traverse the aisles of the facility hawking various items of food and drink. These vendors frequently carry only a single type of food or drink. Often a wait of many minutes must be endured until a vendor appears who, hopefully but infrequently, has the item sought. Even then, the vendor may not have the correct change and considerable disruption occurs to those other customers seated between the purchaser and the vendor. This is a very ineffective and inefficient method of ordering and delivering items of food, drink and merchandise to customers.

The other method of obtaining food or drink is to queue up in long lines at refreshment stands scattered outside the main area in the hallways of the facility where several, but not all, types of refreshments can often be purchased together at a single stand.

It is also common for facility operators to sell merchandise such as pennants, T-shirts, caps, trinkets, and CDs. These may also be occasionally purchased from the

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roving vendors in the facility, but, more often, must be purchased from a merchandise stand elsewhere in the facility. However, it is seldom possible to purchase all of these items at a single stand.

As a result, a customer wishing to purchase several different types of food and drink and some items of merchandise must wait for multiple vendors and also visit multiple stands, probably missing seeing part of the event taking place in the facility. Thus, there is a need for a system whereby customers can order items from a remote location without leaving their seats.

Remote ordering systems are known in the prior art. However, these systems do not address the problems outlined above. For example, US Patent 5,664,110 discloses a remote ordering system intended for use by homeowners or businesses to facilitate ordering from multiple vendors without the need to travel to the vendor. This system is similar to current systems of placing orders over the Internet via using complex menus for numerous parts and from numerous possible vendors. This is distinctly different from the problem of securing food and beverages from vendor facilities located in the same building structure. Furthermore, this system is unduly complex in that it requires use of secondary data input devices, such as bar code scanners and the like to input desired product codes.

The remote order terminals described in US Patents 4,415,065 and 4,469,421 are intended and suited for use by the employees serving the customer, rather than for use by the customer himself. For example, in its restaurant application, the customer uses a wireless paging system to summon the employee operating the remote order terminal. The order function are then carried out by the employee, which does not address the problems described above.

US Patent 5,235,509 discloses a customer self-ordering system. However, this patent teaches use of a kiosk-style touch screen monitor self-ordering system for

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places such as fast food restaurants. This would require customers to leave their seats, and, consequently, does not address the problems described above.

There is a need for a system whereby customers having identifiable seating in an arena can place an order for various items of food, drink and merchandise from their seats to a remote location and have the order delivered to them. There is also a need for this system to include a provision for remote payment for the order.

#### SUMMARY OF THE INVENTION

It is, therefore, an object of this invention is to provide a system whereby customers having identifiable seating in an arena can place an order for various items of food, drink and merchandise from their seats to a remote location and have the order delivered to them.

It is another object to provide a system which includes a provision for remote payment for the order.

It is a further object of this invention to provide a system with which customers can review a menu of the available items of food, drink and merchandise without leaving their seats.

In one aspect, this invention features a remote ordering system for customers at a large-scale event having identifiable seats in which a customer uses a handheld electronic device, which displays a full menu of items offered, to order selected items. The order includes identification of the items ordered and the seat location or customer identification, and is transmitted to a central order fulfilling site, where the order is assembled and thereafter delivered to the customer at the identified seat location. Payment is done by a prearrangement involving prepayment, credit line, or the preauthorized use of a credit or debit card.

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In another aspect this invention features a remote ordering system comprising a plurality of portable, customer-operated remote ordering terminals, each of which has a battery, a display for displaying a plurality of menus listing items for sale, function keys for navigating the menus and selecting items to be ordered, and wireless means of communicating the order to a remote order processing station and receiving confirmation of order receipt, a transceiver at the processing station for communicating with the ordering terminals, and a computer for processing the orders and payment therefor.

In a preferred form, a docking station for battery charging and menu programming capability is provided for the terminals. A terminal distribution/collection station is located near each entrance to the facility to distribute the terminals and to secure deposit and payment terms (cash, credit/debit card, etc.), and customer seat location information prior to start of the event, and to collect the terminals after conclusion of the event. The terminals carry means for audibly reminding customers to return the terminals to prevent inadvertent removal of terminals from the facility.

Preferably, the system includes a provision for confirming receipt of an order, and a provision for confirming order receipt.

These and other objects and features of this invention will become more readily apparent upon reference to the following detailed description of a preferred embodiment as illustrated in the accompanying drawings, in which:

#### BRIEF DESCRIPTION OF THE DRAWINGS

Fig. 1 is a block diagram showing the major components of the remote ordering system of this invention;

Fig. 2 is a plan view of a remote ordering terminal;

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Fig. 3 is a perspective view of the terminal of Fig. 2;

Fig. 4 is a sample menu layout for the terminal of Figs. 2 and 3;

Fig. 5 is a block diagram of an order processing unit of the system of Fig. 1;

and

Fig. 6 is a schematic diagram of the terminal of Figs. 2 and 3.

### DESCRIPTION OF THE PREFERRED EMBODIMENT

Referring now to Fig. 1, as customers arrive for at a facility for a concert, game or other event, they will be presented with the opportunity to obtain a battery-operated wireless remote ordering terminal 10 which will be available at a kiosk 12. These terminals are stored in a combination battery charger/ programming unit, or docking station 14, which keeps the terminals' batteries charged and provides the current menu of item offered for sale which can be selectively displayed on the terminal's display screen 16. Ideally, a kiosk 12 would be prominently located adjacent each entrance to the facility.

At this time, facility personnel will prearrange for payment for items subsequently ordered by the customer. This may take the form of use of a credit or debit card, deposit of a predetermined amount of cash, or, for frequent customers, tap a preestablished line of credit. The customer's seating location and the identification number of the wireless remote ordering terminal issued to the customer will be recorded. The customer will then proceed to the seat.

The terminal 10 may take the form illustrated in Figs. 2 and 3, and includes a case 18, screen 16, a plurality of operation keys 20 for displaying and scrolling through

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menus, numerical keys 22 for indicating item and quantity, and control keys 24 for controlling the ordering process. Fig. 4 displays a menu hierarchy 26 that illustrates the variety of functions possible with a terminal 10. The functions include a food and drink menu 28, a merchandise menu 30, and an information menu 32.

At any time during the event, the customer can page/scroll through the hierarchical menu 26 displayed on the remote ordering terminal and use its various keys 20, 22 and 24 to identify and select items for ordering, review the order, transmit the order, and receive confirmation that the order has been accepted for processing. As hierarchical menu systems have become common with the advent of automated teller machines and windowed graphical user interfaces on modern computer operating systems, the concept will not be further described here.

Remote ordering terminal 10 transmits and receives information preferably via infrared or radio transmission. One or more remote order transmit/receive nodes 36 are each used to communicate with numerous of the remote ordering terminals by means that avoid overlapping transmission conflicts, such as time division multiplexing, polling, collision detection and avoidance, all of which are well developed technologies and well known to those skilled in the art.

An order transmission sent from terminal 10 is received by an order processing unit 34 contains the terminal identification number which allows the processing unit to correlate the order with the credit information and the seat delivery information. The items on the order are displayed on a screen 35 for fulfillment. Thereafter, the order is filled and a delivery person delivers it to the customer. Upon delivery, the customer is asked to acknowledge delivery via his remote ordering terminal 10 to confirm delivery and authorize the charge to his account. To assure delivery and payment, the delivery person may need to acknowledge delivery of the order. Concurrence by the customer and delivery person would assure this.

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At the end of the event, the customer will return wireless remote ordering terminal 10 to kiosk 12. As terminal 10 is plugged back into docking station 14, its identity is read, customer liability for the wireless remote ordering terminal is ended, and a receipt for the charges to the customer's account is printed and given to the customer.

If a customer should inadvertently exit the facility without returning remote ordering terminal 10, this will be detected, either through loss of signal or detection of a special signal, such that it will initiate emission of audible beeps to remind the customer that unit 10 should be returned to kiosk 12.

Although terminal 10 is illustrated as a hand-held unit, it could be augmented by addition of a strap or cord to hang around the customer's neck or attach to other portions of the body, thus reducing the incidence of dropping the unit during celebration or applause. This would also reduce incidences of customers leaving units 10 at their seats and forgetting to return them to kiosk 14.

Processing unit 34 is shown in greater detail in Fig. 5. It includes a wireless transmitter and receiver 36 which receives signals from remote ordering terminals 10, and relays them to an order processing computer 38. Computer 38 is connected (a) a modem 40 for communication to a financial service company for credit/debit card processing, (b) order processing terminals 42 to interface with order fulfillment and delivery, (c) transaction processing terminals 44 for use by accounting and management personnel to manage vendor, supplier, credit, employee and other accounts, and (d) programming and issue terminals 46 to manage customer activities at the kiosk 12, and to enable menu updating for the remote ordering terminals 10 via docking stations 14.

The details of terminal 10 are shown in Fig. 6. It includes a microcontroller 50 which is powered and programmed via a charger/programmer 52 that plugs into docking station 12. Communication with processing unit 34 is via transmitter/receiver

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54. Annunciator 56 is provided to announce inadvertent removal of terminal 10 from the facility. Keypad 20, 22, 24 and display 16 also connect to microcontroller 50.

Many benefits accrue through use of the system described herein:

Customers receive a higher level of service by having the ability to order, receive, and pay for any combination of items that are available at the event without having to leave their seats, stand in line, miss portions of the event, or be limited to only cash on hand.

Customers with special needs would also benefit from the easy-to-use, alphanumeric, Braille keypad that is provided by this system. It would eliminate their need to walk, stand in line, verbally communicate, depend on a seeing person for placing their order, or be involved with cash transactions.

Organizers of these events and facility owners would benefit by being able to charge more for those seats that are located in sections of the stadiums, concert halls, and amphitheaters that are equipped with this system. Event sponsors would further benefit from the ability to advertise and sell their special event-related items off the terminal merchandise menu list.

Vendors of snacks and gift items at these events would also benefit from higher sales levels since:

- a. customers who historically would not leave their seats, dreaded standing in line, and did not want to miss portions of the event in order to buy their items, could employ this system to facilitate their shopping;
- b. customers who do not make a point of carrying enough cash on them, could make credit card purchases using this system; and
- c. customers who came in as part of a group or as corporate representatives needing to spend all their time with their clients, could use this system to facilitate their ordering and payment process without having to leave their client or the event.

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Although ~~only~~ a preferred embodiment has been described in detail, many modifications are contemplated within the scope of this invention.

For example, modified forms of this remote ordering system could be considered for other types of service applications, such as patients filling out doctor's questionnaires, job applications, credit applications at banks, etc. This would provide for quicker service rendered as well as a method for direct input into these institutions' electronic database systems. As a special service to those customers attending large events, who do not have a cellular phone or pager and want to be accessible to external messages, a remote ordering system could be enabled to receive written messages, similar to ones currently available via some paging systems.

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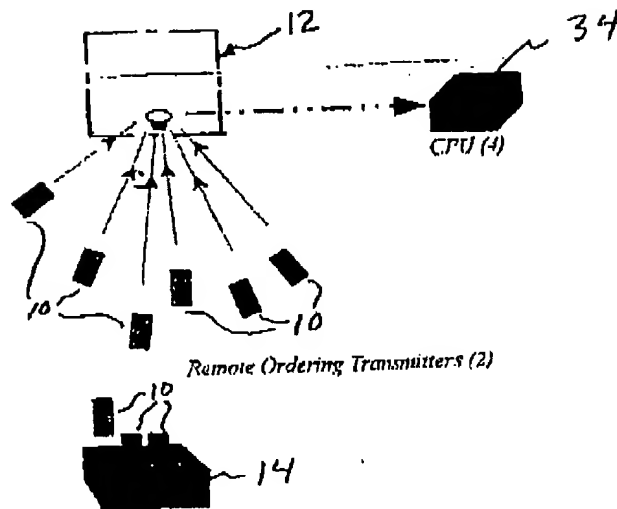


Fig. 1

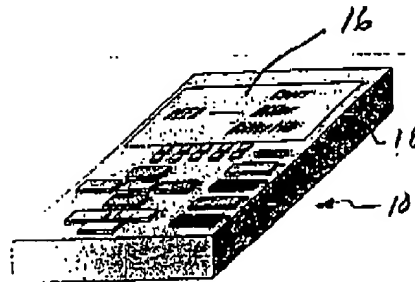


Fig. 2

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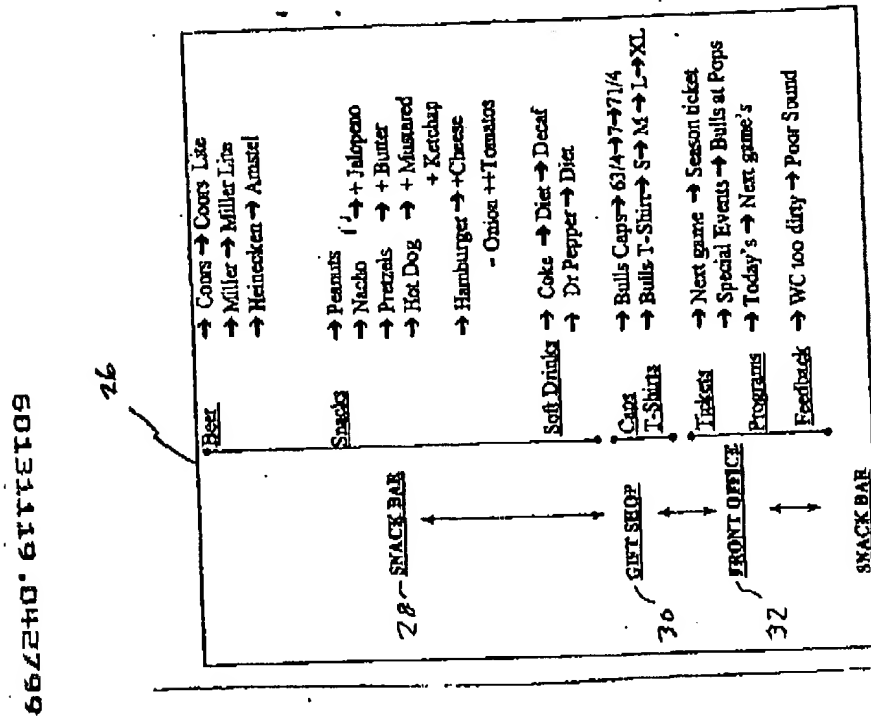


Fig. 4.

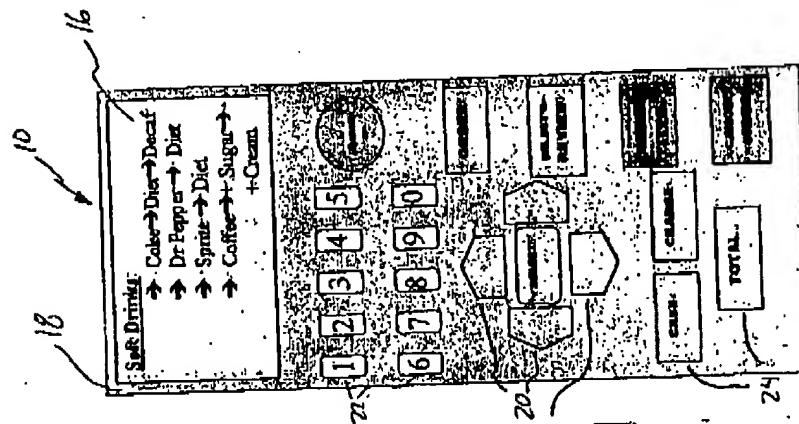


Fig. 3

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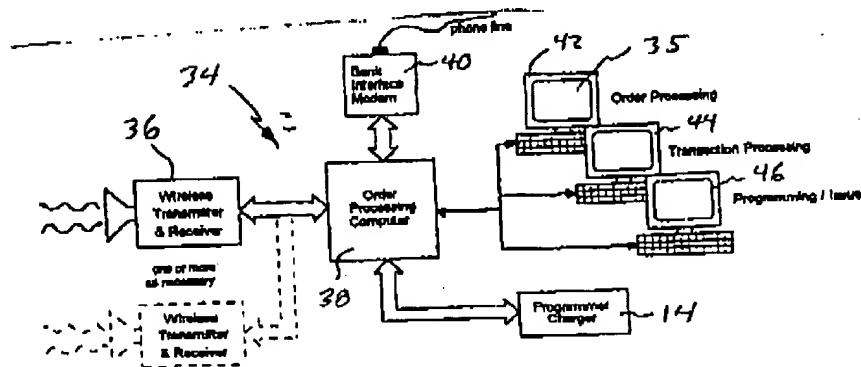


Fig. 5

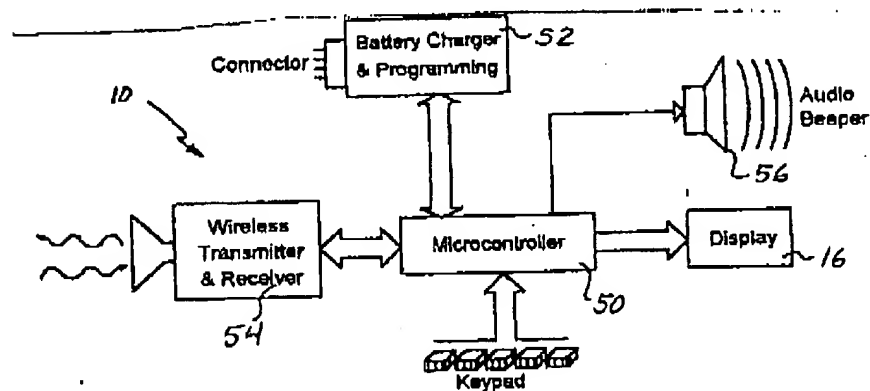


Fig. 6

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